

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

In Re: Margaret J. Myers : Chapter 7
Debtor : Case No. 07-14565-bif

**MOTION TO DETERMINE STATUS OF THE AUTOMATIC STAY
PURSUANT TO 11 U.S.C. §362(c)(4)(A) and (D)**

Southern Medical Supply Co. respectfully request that the Court enter an Order confirming that no stay went into effect upon the filing of the Debtor's present Chapter 7 filing on August 6, 2007 and in support thereof asserts as follows:

1. On August 12, 2004, Debtor filed a case under Chapter 13 at case No. 04-30938, which case this Court by Order dated June 15, 2007 determined was still pending when the Debtor filed her Chapter 7 case on April 16, 2007 at case No. 07-12181, which case was dismissed as a second improper filing by this Court.
2. At the time of the Debtor's present Chapter 7 filing on August 6, 2007, the Debtor therefore had two prior cases pending within the previous year which were dismissed and pursuant to §362(c)(4)(A)(i), the stay under §362(a) did not go into effect upon the filing of the present case.
3. Further, the Debtor's present case was presumptively filed other than in good faith pursuant to §362(c)(4)(D)(i)(I) since two previous cases were pending within the one year period preceding the instant filing.
4. The Debtor's present case was presumptively filed other than in good faith pursuant to §362(c)(4)(D)(ii) since Southern commenced an action under §362(d) in the April

16, 2007 Chapter 7 case filed by the Debtor, which action was pending at the date of the dismissal of the prior case.

WHEREFORE, Southern Medical Supply Co. respectfully requests this Court to determine that the automatic stay of §362(a), did not go into effect upon the filing of the Debtor's present Chapter 7 filing.

Respectfully submitted,
HILL WALLACK LLP

BY: 

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